

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal from Order No.108 of 2007
with
Appeal from Order No.109 of 2007.**

Maharashtra State Electricity
Distribution Company ..Appellant

versus

M/s. Maru Chemicals Production ..Respondent.

Mrs.A.R.S.Baxi for the Appellant

Mr.P.N.Joshi for the Respondent

**Coram : S.R.Sathe, J.
Dated : 1st Oct., 2007**

P.C.

1. Heard both the learned advocates.

2. The learned Trial Judge has granted temporary injunction as prayed by the plaintiff and directed the plaintiff to deposit 75% of the disputed bill amount with the defendant company. It is an admitted fact that accordingly the plaintiff has deposited the 75% amount with the defendant company and the electricity connection has been restored.

3. From the perusal of the impugned order it appears that the learned trial Judge has not

recorded any definite finding with regard to jurisdiction of the Civil Court to try the present suit. Both the learned advocates submitted that they have no objection if the trial court is directed to try the issue with regard to jurisdiction as a preliminary issue. The plaintiff has shown willingness to deposit the balance 25% amount without prejudice to his rights . In view of the above, the following order is passed.

ORDER

1. The plaintiff is directed to deposit the balance 25% amount of the disputed bill with the defendant company within five weeks from today, without prejudice to the rights of both the parties.

2. If 75% amount as per the earlier order is deposited by the plaintiff in the trial Court and the same is allowed to be withdrawn on certain terms and conditions then the further amount of 25% that will be deposited by the plaintiff in the trial court is also allowed to be withdrawn by the defendant on the same terms and conditions.

3. The trial Court is directed to decide the issue with regard to jurisdiction of the Civil Court and to try the said issue as a preliminary issue after giving due opportunity to both the parties.

4. The said issue be decided as expeditiously as possible.

5. The parties are directed to appear before the trial Court on 10.10.2007.

6. A.O. disposed of in above terms.

. Parties to act on the authenticated copy of this order.

(S.R.Sathe, J.)